THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25852 of 2006

Dated:16.03.2007

Between:

Pulleti Ramachandra Rao and others.

... Petitioners

AND

Govt. of A.P., and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25852 of 2006

ORDER:

The five petitioners are residents of Muggulla Village of Ganapavaram Mandal in West Godavari District. They filed the instant Writ Petition seeking a writ of mandamus declaring the action of the fifth respondent, namely, the Mandal Revenue Officer (now designated as Tahasildar) in assigning the grama kantam land comprised in R.S.No.43/1 in Muggulla Village as illegal and contrary to Section 58 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act').

This Writ Petition is filed essentially placing reliance on the decision of a learned Single Judge of this Court in **Sarpanch, Polakala Gram Panchayat, Irala Mandal, Chittoor District v. District Collector, Chittoor**[1]**.** In a recent judgment, having regard to Section 58(1) of the Act, which enumerates the common/certain community of lands which vests in the Gram Panchayat, in **Banne Gandhi v The District Collector, Ranga Reddy District**[2] this court laid down as under.

> A perusal of subsection (1) of Section 58 of the Act would show that only certain classes of lands described therein which are not required by the Government for any specific purpose shall vest in the Gram Panchayat. The village site poramboke/Grama Kantam land is conspicuous by its absence in the category of lands enumerated in subsection (1) of Section 58 of the Act. Therefore, Section 58(1) of the Act is not attracted. In an unreported judgment, being W.P.No.18865 of 2006, dated 25.09.2006, this Court has considered this aspect having regard to the **Sarpanch, Polakala Gram Panchayat, Irala Mandal, Chittoor District v. District Collector, Chittoor** (supra), and also Board

> Standing Order 15 of the Andhra Pradesh Board of Revenue Standing Orders. This Court rejected a similar contention observing as under.
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> A bare perusal of Section 58 of the Act would show that grazing grounds, threshing floors, burning and burial grounds, cattle stands, carts tanks and topes at the disposal of the Government vests in the Gram Panchayat. If the Government requires these lands for any specific purpose, Sub-Section (2) of Section 58 of the Act requires the Government to direct that the poramboke land referred to hereinabove is mentioned in Section 58(1) of the Act and shall cease to vest in the Gram Panchayat. When only specific items of land find place in Sub-Section (1) of Section 58 of the Act, it is not possible to enlarge these items by including the Government land classified as grama kantam land. Learned counsel for petitioner placed reliance on judgment of this Court in **Sarpanch, Polakala Gram Panchayat, Irala Mandal, Chittoor District v. District Collector, Chittoor and others**. The judgment appears to have been rendered *per incuriam* without noticing Sub-Section (1) of Section 58 of the Act and there is no discussion or reference to any precedent. Therefore, the judgment being *subsilentio* is not binding precedent. Secondly under paras 2 and 3 to BSO 15 of the Andhra Pradesh Board of Revenue Standing Orders, village site poramboke land (grama natham area/ grama kantam land) always vests in the Government and is intended for being allotted as house sites in future.

In view of the above, the land, which is classified in revenue records as a grama kantam or grama natham land or village site poramboke is not one of the categories of lands, which statutorily vests in the Gram Panchayat. Therefore, the Gram Panchayat has no say in the assignment of land. If the petitioners are aggrieved by the assignment made by the fifth respondent against the beneficiaries who are not parties to the Writ Petition, it is always open to them to prefer an appeal against such assignment before the fourth respondent.

The Writ Petition is misconceived, and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

16.03.2007
vs

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[1] 1997 (2) ALT 486

[2] W.P.No.23315 of 2006, dated 23.2.2007